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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL ANTHONY NELSON,

Defendant.

No. CR 10-00244 EMC

STIPULATION AND [PROPOSED]
ORDER EXCLUDING TIME FROM
OCTOBER 26, 2011, TO DECEMBER 21,
2011.

With the agreement of the parties in open court on October 26, 2011, and with the consent of the defendant Michael Anthony Nelson, the Court enters this order (1) setting a status conference in District Court on December 21, 2011, at 2:30 p.m., and (2) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, from October 26, 2011, to December 21, 2011.

The Court finds and holds, as follows:

1. The parties previously appeared before District Judge Edward M. Chen on October 13, 2011. At that time, Counsel for defendant informed the Court and counsel for the government that the defendant had filed a *pro se* appeal of the Court's order denying defendant's motion to suppress evidence. The Court set a further status conference for October 26, 2011, to give the

[PROPOSED] ORDER EXCLUDING TIME
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1 counsel for defendant time to investigate and found that the period from October 13, 2011, to
2 October 26, 2011, was properly excluded under the Speedy Trial Act to allow defense counsel
3 further preparation. The government agreed to the proposed exclusion of time.

4 2. On October 25, 2011, a Clerk's Order was filed by the Clerk of the Ninth Circuit Court of
5 Appeals directing defendant to move for voluntary dismissal of his appeal or to show cause why
6 it should not be dismissed for lack of jurisdiction. The Order states that defendant is to file his
7 response within twenty-one days of the order and that any response is to be filed within ten days
8 following the filing of defendant's response.

9 3. The parties appeared on October 26, 2011 before District Judge Edward M. Chen. Based
10 on the aforementioned Clerk's Order, the Court scheduled a further status conference for
11 December 21, 2011, at 2:30 pm. Counsel for the defendant, who was present and in custody,
12 requested that the period until December 21, 2011, be excluded under the Speedy Trial Act to
13 allow defense counsel time for further preparation.

14 4. The Court finds that, taking into account the public interest in the prompt disposition of
15 criminal cases, granting the continuance from October 26, 2011 to December 21, 2011, is
16 necessary for effective preparation of defense counsel. 18 U.S.C. § 3161(h)(7)(B)(iv). The Court
17 also notes the existence of the Ninth Circuit proceedings. Given these circumstances, the Court
18 finds that the ends of justice served by excluding the period from October 26, 2011, to December
19 21, 2011, outweighs the best interest of the public and the defendant in a speedy trial. 18 U.S.C.
20 § 3161(h)(7)(A).

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1 5. Accordingly, and with the consent of the defendant, the Court (1) sets a status hearing on
2 December 21, 2011, at 2:30 p.m., and (2) orders that the period from October 26, 2011, to
3 December 26, 2011, is excluded from Speedy Trial Act computation under 18 U.S.C. §§
4 3161(h)(1)(D) and 3161(h)(7)(A) and (B)(iv).

5 IT IS SO STIPULATED.

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7 Dated: November 1, 2011

Respectfully submitted,

8 MELINDA HAAG
9 United States Attorney

10 /s/

11 MICHELLE J. KANE
12 Assistant United States Attorney

13 Dated: November 1, 2011

BARRY PORTMAN
Federal Public Defender

15 /s/

16 RONALD TYLER
17 Assistant Federal Public Defender
Counsel for Michael A. Nelson

18 IT IS SO ORDERED.

19 Dated: 11/4/11
20 _____

